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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 02, 2019
86th Legislature, Number 57
The House convenes at 10 a.m.

The bills and joint resolutions analyzed or digested in today's *Daily Floor Report* are listed on the following page.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 57

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, May 02, 2019
86th Legislature, Number 57

SUBJECT: Creating GROW fund for community infrastructure in oil, gas areas

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 22 ayes — Zerwas, Longoria, C. Bell, G. Bonnen, Buckley, Capriglione, Cortez, Hefner, Miller, Minjarez, Muñoz, Rose, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, VanDeaver, Walle, Wilson, Wu

1 nay — Howard

4 absent — S. Davis, M. González, Jarvis Johnson, J. Turner

WITNESSES: For — Matthew Thompson, Apache Corporation; James Beauchamp, MOTRAN; Ben Shepperd, Permian Basin Petroleum Association; Todd Staples, Texas Oil and Gas Association; Ed Longanecker, TIPRO; (*Registered, but did not testify*: Steven Albright, AGC of Texas-Highway Heavy Branch; Mindy Ellmer, Anadarko Petroleum; Lauren Spreen, Apache Corporation; Janiece Crenwelge, Association of Energy Service Companies; Paula Bulcao, BP America, Inc.; Steve Perry and Julie Williams, Chevron USA; Royce Poinsett, Cimarex; Stan Casey, Concho Resources; Betsy Madru, Diamondback Energy; Caleb Troxclair, EOG Resources, Parsley Energy; Jimmy Carlile, Fasken Oil and Ranch, Ltd.; Lindsay Munoz, Greater Houston Partnership; Julie Moore, Occidental Petroleum; Bill Stevens, Panhandle Producers and Royalty Owners Association, Texas Alliance of Energy Producers; Michael Lozano, Permian Basin Petroleum Association; Mia Hutchens, Texas Association of Business; Lauren Fairbanks, Texas Association of Manufacturers; Grover Campbell, Texas Association of School Boards; Ryan Paylor, Texas Independent Producers and Royalty Owners Association; Al Zito)

Against — None

BACKGROUND: Revenue for the Economic Stabilization Fund (ESF), also known as the rainy day fund, comes almost entirely from oil and natural gas production taxes, also known as severance taxes. Before fiscal 2015, the ESF received 75 percent of any severance tax revenue that exceeded the amount collected in fiscal 1987. A constitutional amendment adopted in

2014 requires the comptroller to send one-half of this amount to the State Highway Fund, with the rest continuing to go to the ESF. The comptroller reduces or withholds allocations to the State Highway Fund as needed to maintain a sufficient balance in the ESF, as determined by a select legislative committee.

DIGEST:

CSHJR 82 would establish the Generate Recurring Oil Wealth for Texas (GROW Texas) fund and redirect certain transfers of general revenue that currently go to the Economic Stabilization Fund (ESF) to the new fund. The fund could be used only for infrastructure needs in areas affected by oil and gas production.

Transfers into the fund. Each fiscal year, 12 percent of the amount of general revenue from severance taxes that would have been transferred to the ESF would instead be transferred to the GROW Texas fund, up to $250 million per biennium. The GROW Texas fund would consist of such transfers, legislative appropriations, funds dedicated by statute, contributed gifts or grants, and investment earnings and interest.

The amendment would revise current requirements that the Legislature establish a procedure to use when general revenue allocations going to the ESF and the State Highway Fund are adjusted to transfer more of the severance tax revenue to the ESF. Under CSHJR 82, the procedure would have to include the GROW Texas fund.

Appropriations from the fund. The Legislature could appropriate money from the GROW Texas fund only for use in areas of the state where oil and gas were produced and only for infrastructure needs, as provided by law, in areas the Legislature determined were significantly affected by oil and gas production. Statutes enacted under this provision could authorize appropriations from the fund for grants to state agencies and political subdivisions for these purposes.

On the last day of each fiscal biennium, the comptroller would have to transfer unobligated and unappropriated balances in the fund to the ESF.

GROW Texas commission. CSHJR 82 would create the GROW Texas commission to administer money appropriated from the fund and to advise

the Legislature on making appropriations from the fund.

The commission would have seven members serving four-year terms beginning September 1 of each odd-numbered year. The lieutenant governor would be required to appoint two members of the Senate to the commission, and House speaker would be required to appoint two members of the House. The governor would be required to appoint three public members and would designate the presiding officer.

Effective date. Provisions creating the new fund and directing certain allocations to it would take effect September 1, 2021.

Ballot language. The ballot proposal would be presented to voters at an election on November 5, 2019, and would read: "The constitutional amendment providing for the creation of the generate recurring oil wealth for Texas (GROW Texas) fund, dedicating the money in that fund to benefit areas of the state from which oil and gas are produced, and providing for the transfer of certain general revenues to that fund, the economic stabilization fund, and the state highway fund."

SUPPORTERS SAY:

CSHJR 82 would help address a need for long-term funding for critical community infrastructure in areas of Texas that contribute heavily to the state's economic success. Energy production is crucial to Texas' economy, and CSHJR 82 would allow the state to invest in the future of the communities and people that support oil and gas production. This investment would pay off with short- and long-term benefits for all Texans.

Certain areas of Texas have seen prolonged increases in economic activity in the oil and gas industries, which has led to a rapid influx of residents. However, community infrastructure, such as schools and roads, and public safety and health care services have not been able to keep pace. This can be seen in the inadequate roads, teacher and doctor shortages, health care needs, and other problems facings these areas. If the state does not invest in the infrastructure that supports the people living and working in these regions, huge potential economic growth could be lost which in turn would harm the state as a whole.

CSHJR 82 would address this serious problem by setting aside a portion of oil and gas taxes for investment into these communities. The funds would be available to all areas where oil and gas were produced as well as areas significantly affected by production and could support projects to maintain roads, expand learning opportunities for students, recruit doctors, establish emergency care facilities, and more. Supporting this type of infrastructure would help keep and create jobs and set the stage for economic growth for the entire state.

CSHJR 82 would protect the ESF for the future by supporting the revenue source — the oil and gas industry — that funds it. In the long run, this would keep the ESF at the level necessary to allow the state to be prepared for emergencies.

While other funds possibly could be used to address some of the needs of the state's oil and gas producing areas, a focused approach to these critical areas is necessary. The community infrastructure needs of oil- and gas-producing areas would not all fall within the parameters of the Texas Legacy Fund being considered by the 86th Legislature, and that fund, as well as the ESF in general, have a statewide focus that might not support the specific needs of oil- and gas-producing areas.

Approving CSHJR 82 would allow Texans to vote in November on the issue, but would not itself expend any funds. If Texans support the proposal, the 87th Legislature in 2021 would be able to make specific decisions about appropriating from the fund. If the state does not set the stage to invest in oil and gas producing areas by asking voters to approve the GROW Texas fund, the need would be even greater in the future and some economic opportunities could be lost.

OPPONENTS SAY:

CSHJR 82 would reduce budgeting flexibility by placing certain state revenues into a fund earmarked for a specific use. The amendment could unwisely siphon state funds into an account that would not be available for general spending, even in the case of an emergency. Spending decisions should take place within the context of as many available resources as possible and with the consideration and weighing of all

needs, rather than through a pool of separate funds. The 86th Legislature already has taken steps to create the Texas Legacy Fund with broader spending purposes that could include certain infrastructure projects in oil and gas producing areas.

NOTES:

According to the Legislative Budget Board, CSHJR 82 would have a negative impact of $177,289 in fiscal 2020-21 to publish the resolution.

CSHJR 82's enabling legislation, HB 2154 by Landgraf, has been approved by the House Appropriations Committee.

SUBJECT: Requiring certain health plans to cover craniofacial abnormality treatment

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Lucio, Oliverson, G. Bonnen, S. Davis, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

WITNESSES: For — (*Registered, but did not testify*: Dennis Borel and Chris Masey, Coalition of Texans with Disabilities; Kimberly Avila Edwards, Dell Children's Medical Center, Ascension, Ascension Seton, Ascension Providence; Lauren Spreen, Texas Academy of Family Physicians; Tracy Morehead, Texas Academy of Pediatric Dentistry; Carrie Simmons, Texas Association of Orthodontists; Matt Roberts, Texas Dental Association; Clayton Stewart, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Bradford Holland; Bill Kelberlau)

Against — Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: John McCord, NFIB; Jessica Boston, Texas Association of Business)

On — (*Registered, but did not testify*: Rachel Bowden, Texas Department of Insurance)

BACKGROUND: Insurance Code sec. 1367.153 defines "reconstructive surgery for craniofacial abnormalities" covered under a health plan as surgery to improve the function of, or to attempt to create a normal appearance of, an abnormal structure caused by congenital defects, developmental deformities, trauma, tumors, infections, or disease.

DIGEST: HB 1968 would require health benefit plans that provided coverage for reconstructive surgery for craniofacial abnormalities to individuals younger than 18 years of age to also provide coverage for the primary and secondary conditions of craniofacial abnormalities, including:

- oral and facial surgery, surgical management, and follow-up care;

- prosthetic treatments, including obturators and speech and feeding appliances;
- orthodontic treatment and management;
- preventive and restorative dentistry to ensure good health and adequate dental structures for orthodontic treatment or prosthetic management or therapy;
- speech-language pathology services, including evaluation and therapy;
- audiological assessments and amplification devices;
- otolaryngological treatment and management;
- psychological assessment and counseling; and
- genetic assessment counseling for the parents and child.

The bill would apply only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2020.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1968 would provide needed care to children with craniofacial abnormalities and would lower long-term costs by requiring health plans that covered craniofacial abnormality surgeries to cover follow-up care.

Children who receive surgery for craniofacial abnormalities need extensive follow-up care and treatments after the procedure. Without timely and comprehensive post-surgery care, these children could be more susceptible to complications, including speech pathologies, problems eating, and pneumonia. The bill would ensure the best outcomes for these children by requiring health plans that already covered surgeries for children to cover certain follow-up services.

HB 1968 also would lower long-term costs for the families of children with craniofacial abnormalities and the state. When children do not receive follow-up care to initial corrective surgeries for craniofacial abnormalities, they may suffer from complications and require more extensive surgical procedures in the future. This could necessitate costly medical care that could be avoided by requiring health plans to cover follow-up services for children with craniofacial abnormalities post-

surgery.

The bill would not duplicate existing mandates for health plans, but would simply codify the treatments required to be covered for children with craniofacial abnormalities. Ensuring that these children received comprehensive care after an initial surgery would lower costs for all stakeholders and provide the best outcomes for children.

OPPONENTS SAY:

HB 1968 could raise overall costs for consumers by creating another mandate for health insurance plans. In addition, many of the treatments that would have to be covered under the bill already are mandated for health plans. Creating a duplicative set of mandates could lead to a large increase in health coverage and costs for health plan members. Any attempt to create additional mandates for health plans should ensure that the costs would not outweigh the public good.

SUBJECT: Allowing tribal government employees to be exempt from jury service

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Farrar, Y. Davis, Julie Johnson, Meyer, Neave, Smith, White

0 nays

2 present not voting — Leach, Krause

WITNESSES: For — Jason Nelson, Kickapoo Traditional Tribe of Texas (*Registered, but did not testify*: Thomas Parkinson)

Against — (*Registered, but did not testify*: Lee Parsley, Texans for Lawsuit Reform)

BACKGROUND: Government Code sec. 62.106(a) establishes grounds for certain exemptions from jury service. An otherwise qualified person is exempted from jury service if the person is an officer or employee of the Senate, the House of Representatives, or any department, commission, board, office, or other agency in the legislative branch of state government, among other exemptions.

DIGEST: HB 2068 would allow documented tribal council members or employees of the legislative branch of certain tribal governments to be exempt from jury service. The bill would apply to the Alabama-Coushatta Indian Tribe, the Ysleta del Sur Pueblo (Tigua Indian Tribe), and the Kickapoo Traditional Tribe of Texas.

The bill would take effect September 1, 2019, and would apply only to people summoned for jury service who are required to appear on or after that date.

SUPPORTERS SAY: HB 2068 would extend the same jury service exemptions to members or employees of tribal governments that are extended to members or employees of the state government. Allowing certain people involved in government to be exempt from jury service prevents disruptions in the

legislative process. The bill would put tribal governments on equal footing with the state with respect to jury service and would allow for the effective functioning of those governments.

OPPONENTS SAY:

There should be no additional exemptions to jury service.

SUBJECT: Requiring certain public school safety measures and procedures

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: CJ Grisham, Open Carry Texas; Suzi Kennon, Texas PTA)

Against — (*Registered, but did not testify*: Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Dee Carney, Texas School Alliance)

On — Adrian Gaspar, Disability Rights Texas; (*Registered, but did not testify*: Matthew Fuller, Sam Houston State University; Von Byer, Texas Education Agency; Kathy Martinez-Prather, Texas School Safety Center at Texas State University; Craig Schiebel)

BACKGROUND: Education Code sec. 37.108 requires each school district and public junior college district to conduct a safety and security audit of the district's facilities at least every three years.

Sec. 38.022 authorizes school districts to require a person who enters a district campus to display the person's driver's license or another form of government-issued identification containing the person's photograph. School districts also may verify whether a visitor to a district campus is a registered sex offender, and the board of trustees of a school district is required to adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.

DIGEST: CSHB 974 would require each school district and public junior college district to conduct a safety and security audit of the district's facilities at least every two years.

School districts also would have to require any person who entered a district campus for a purpose other than to attend a school-sponsored event that was open to the public to display a form of government-issued photo identification. Districts would have to verify whether a person who visited a campus for such a purpose was a registered sex offender.

Under the bill, school districts also would be allowed to verify whether a person who visited a district campus to attend a school-sponsored event that was open to the public was a registered sex offender.

The bill would apply beginning with the 2019-2020 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 974 would increase school safety by requiring more school districts and junior college districts to conduct safety and security audits more frequently and by requiring photo ID and sex offender status checks for visitors to public school campuses.

By requiring more frequent safety and security audits, the bill would allow school districts and junior colleges additional opportunities to identify and address safety issues on a regular basis. Conducting photo ID and sex offender status checks for visitors to public schools would make schools safer, and it could be accomplished within schools' existing resources because schools can access the sex offender registry online free of charge. School districts also could maintain these safety standards while continuing to serve parents unable to obtain a government-issued ID by issuing them a school ID for that school year and having them check in at the front office when visiting a campus.

OPPONENTS SAY:

CSHB 974 could financially burden school districts and negatively impact individuals who did not qualify for a government issued ID. The bill would increase costs for school districts and junior colleges by increasing the frequency of security audits and by requiring photo ID and sex offender status checks for visitors without providing additional funding.

The bill also could negatively impact parents who could not obtain a government-issued identification, such as undocumented parents. The bill would not explicitly provide flexibility for school districts to accept alternative identifications for such individuals and could prevent certain parents from advocating for their children on campus.

SUBJECT: Creating the Sexual Assault Survivors' Task Force

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Christina Green, Children's Advocacy Centers of Texas, Inc.; Chris Kaiser, Texas Association Against Sexual Assault; Jimmie Chatham; (*Registered, but did not testify*: Donald Baker, Austin Police Department; Jason Sabo, Children at Risk, Mental Health America of Greater Houston; David Sinclair, Game Warden Peace Officers Association; Kristen Lenau, Survivor Justice Project; Amy Meredith, Travis County District Attorney; Katherine Wright, Wright Family Foundation; Vanessa MacDougal; Elva Mendoza; Maria Person)

Against — None

On — Peter Stout, Houston Forensic Science Center and Texas Association of Crime Lab Directors; Kaye Hotz, Office of the Attorney General; (*Registered, but did not testify*: Kenny Merchant, Texas Commission on Law Enforcement)

BACKGROUND: Some have suggested that greater coordination and cooperation among service providers is needed to help ensure the adequacy of services provided to address the needs of sexual assault survivors in Texas.

DIGEST: CSHB 1590 would create the Sexual Assault Survivors' Task Force in the Office of the Governor's Criminal Justice Division and establish its duties and membership. The task force would have to use any available federal or state funding to implement the bill.

Task force. The bill would require the governor to establish the Sexual Assault Survivors' Task Force to develop policy recommendations to

allow the state to effectively coordinate funding for services to child and adult survivors and better prevent, investigate, and prosecute incidents of sexual assault and other sex offenses.

Duties. The task force would:

- facilitate communication and cooperation between state agencies;
- collect, analyze, and make publicly available information on the prevention, investigation, and prosecution of sex offenses and on services provided to survivors, including a list of designated sexual assault forensic exam-ready facilities;
- provide resources to the Texas Commission on Law Enforcement and other law enforcement organizations to improve officer training related to investigating and documenting sex offenses, with a focus on interactions between officers and survivors;
- provide law enforcement, prosecutors, and judges resources to maximize effective and empathetic investigation, prosecution, and hearings;
- biennially contract for a survey of the resources provided to survivors by nonprofits, health care facilities, institutions of higher education, sexual assault response teams, and other governmental entities in each region of the state;
- make recommendations to improve the collecting and reporting of data on the investigation and prosecution of sex offenses; and
- develop statewide best practices in the funding and provision of services to survivors by various entities.

The task force also would have to make recommendations on the collection, preservation, tracking, analysis, and destruction of evidence to the attorney general and other individuals or organizations.

Steering committee. The task force's presiding body would be a steering committee composed of the governor, the president of the Texas Association Against Sexual Assault, and the president of the Children's Advocacy Centers of Texas.

The steering committee would have to create working groups focusing on

child and adult survivors; ensure that the task force identified systemic issues and solutions and did not duplicate existing standards, information, or protocols; and review and approve all task force products before release.

The work group focusing on child survivors would have to collect data on the rate of pregnancy among children 14 years or younger.

Membership. The task force would be composed of the governor, an appointed senator and House member, a sexual assault nurse examiner, and specific representatives of certain state agencies, including the Office of the Attorney General, the Health and Human Services Commission, the Texas Commission on Law Enforcement, the Texas Forensic Science Commission, and the Department of Public Safety.

The presidents of the following entities also would be members:

- the Texas Association of Crime Laboratory Directors;
- the Texas District and County Attorney's Association;
- the Texas Municipal Police Association;
- the Texas Society of Pathologists;
- the International Association of Forensic Nurses Texas Chapter;
- the Children's Advocacy Centers of Texas; and
- the Texas Association Against Sexual Assault.

Report. The task force would have to submit to the Legislature by November 1 of each even-numbered year a report that included certain items listed in the bill, including a description of the differences between the resources provided to both child and adult survivors and the statewide standards, recommendations the state and each region could take to better comply with the standards, and a description of potential funding sources to implement those recommendations.

All recommendations, standards, and resource information provided by the task force would have to be evidence-based and consistent with standards of practice and care.

Other provisions. The Texas Commission on Law Enforcement would be required to consult with the Sexual Assault Victims' Task Force regarding minimum curriculum requirements for training in the investigation and documentation of cases that involved sexual assault or other sex offenses.

To implement current law on sexual assault prevention and crisis services, the attorney general would have to consult with state sexual assault coalitions, certain state entities, forensic science experts, and others with knowledge and experience relating to the issues of sexual assault and other sex offenses.

The attorney general would have to consult with the above persons to develop an evidence collection protocol for law enforcement agencies and medical personnel that included procedures and requirements for the contents of an evidence collection kit.

The bill's provisions relating to the Sexual Assault Survivors' Task Force would expire September 1, 2023.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $1.4 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Creating exclusive remedies and appeal process for claims against TFPA

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Lucio, Oliverson, G. Bonnen, S. Davis, Lambert, Paul, Vo

2 nays — Julie Johnson, C. Turner

WITNESSES: For — Jay Thompson, AFACT; (*Registered, but did not testify*: Joe Woods, American Property Casualty Insurance Association; Ryan Brannan and Henry Freudenburg, Coastal Windstorm Insurance Coalition; Lee Loftis, Independent Insurance Agents of Texas; Paul Martin, National Association of Mutual Insurance Companies; Pat Avery, Port Arthur Chamber of Commerce; Jim Rich, Southeast Texas Economic Development Foundation; Lee Parsley, Texans for Lawsuit Reform; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Cathy DeWitt, USAA; David King)

Against — Craig Eiland, Texas Trial Lawyers Association; Ware Wendell, Texas Watch

On — (*Registered, but did not testify*: David Muckerheide, Texas Department of Insurance; Jennifer Armstrong and David Durden, Texas Windstorm Insurance Association)

BACKGROUND: Insurance Code ch. 2211 governs Fair Access to Insurance Requirements (FAIR) plans, which are issued by the Texas FAIR Plan Association. Under sec. 2211.051, the insurance commissioner is authorized to establish a FAIR plan to deliver residential property insurance to residents of the state in underserved areas if the commissioner determines that:

- in all or part of the state, residential property insurance is not reasonably available in the voluntary market to a substantial number of insurable risks; or
- at least 25 percent of qualified applicants to the residential property market assistance program have not been placed with an insurer in the preceding six months.

DIGEST:

HB 1897 would amend claims, dispute, and other processes of the Texas FAIR Plan Association (TFPA). The bill would also create an ombudsman program to assist TFPA policyholders.

Required policy provisions. Under the bill, an insurance policy issued by TFPA would have to require an insured person to file a claim under the policy before the first anniversary of the date on which the damage to property that is the basis of the claim occurred, unless the deadline was extended by the insurance commissioner. The policy also would have to contain a conspicuous notice detailing certain dispute procedures.

Filing of claim. An insured person would be required to file a claim under a TFPA policy by the first anniversary of the date on which the damage to property that was the basis of the claim occurred.

The claimant could submit certain written materials related to the claim to the TFPA. If the claimant failed to submit information in the claimant's possession that was necessary for the association to determine whether to accept or reject the claim, TFPA could request in writing the necessary information no later than the 30th day after the date the claim was filed.

On request, TFPA would be required to provide a claimant with reasonable access to all information relevant to the association's determination regarding the claim, as provided by the bill.

Within 60 days of receiving a claim or information requested of the claimant under this section, unless the deadline was extended by the insurance commissioner, TFPA would have to notify the claimant in writing that:

- the association had accepted coverage for the claim in full;
- the association had accepted coverage for part of the claim and denied coverage for the part of the claim; or
- the association had denied coverage for the claim.

If the association accepted coverage for the claim in full, the notice also would have to inform the claimant of the amount of loss the association

would pay and the time limit to demand appraisal. If the association decided to deny part or all of the claim, the notice would have to inform the claimant, as applicable, of:

- the portion of the loss for which TFPA accepted coverage and the amount of loss the association would pay;
- the portion of the loss for which TFPA denied coverage and a detailed summary of the manner in which the association determined not to accept coverage; and
- the time limit to demand appraisal of the portion of the loss for which the association accepted coverage and to provide notice of intent to bring an action.

TFPA also would be required to provide a claimant with a form on which the claimant could provide the association notice of intent to bring an action.

If the association notified a claimant that coverage for a claim had been accepted in full or in part, TFPA would have to pay the accepted claim or portion of the claim by the 10th day after the notice was given. If payment of the claim was conditioned on the performance of an act by the claimant, TFPA would have to pay the claim by the 10th day after the act was performed.

Disputes of accepted coverage. If a claimant disputed the amount of loss TFPA would pay for a claim, the claimant could request a detailed summary of the manner in which the association determined the amount of loss it would pay.

Within 60 days after a claimant received notice that TFPA would pay part or all of a claim, the claimant could demand appraisal in accordance with the association's policy. This 60-day period could be extended by an additional 30 days if the claimant showed good cause and requested the extension.

If a claimant demanded appraisal under the bill, the appraisal would have to be conducted as provided by TFPA policy and the provisions of the bill. The claimant and association would be equally responsible for paying any

costs incurred or charged in connection with the appraisal.

Except under certain circumstances, such as if an appraisal decision was obtained by corruption or fraud, an appraisal decision reached under the process specified in the bill would be binding on the claimant and the association. A claimant that did not demand appraisal within the 60-day period would waive the claimant's right to contest TFPA's determination of the amount of loss the association would pay for a claim. Except in cases involving fraud, corruption, or other misconduct, a claimant could not bring legal action against TFPA for a claim for which the association accepted coverage in full.

Disputes of denied coverage. If TFPA denied coverage of a claim in part or in full and the claimant disputed the determination, the claimant would have to provide TFPA with notice that the claimant intended to bring an action against the association by the first anniversary of the date on which the damage that was the basis of the claim occurred. If the claimant did not provide notice by this deadline, the claimant would waive the right to contest the denial of coverage and would be barred from bringing an action against TFPA.

TFPA could require a claimant that had provided notice of intent to bring action to submit the dispute to alternative dispute resolution by remediation or moderated settlement conference as a prerequisite to filing the action. The association would have to request alternative dispute resolution within 60 days of receiving the claimant's notice of intent, and the resolution would have to be completed within 60 days after the request was made. This deadline could be extended by the insurance commissioner or by the association and claimant by mutual assent.

If the claimant was not satisfied after completion of alternative dispute resolution or if the alternative dispute resolution was not completed by the deadline, the claimant could bring an action against TFPA in a district court in the county in which the loss that was the subject of the coverage denial occurred. The action would be presided over by a judge appointed as required by statute, and the judge would have to be a resident of the county in which the loss occurred or of an adjacent county.

The court would be required to abate an action brought by a claimant against TFPA concerning a denial of coverage until the notice of intent was provided and, if requested by TFPA, the dispute had been submitted to alternative dispute resolution.

If TFPA requested mediation, the association and the claimant would be equally responsible for paying any costs incurred or charged in connection with the mediation. The bill would specify how a mediator would be selected and what fees could be charged.

The insurance commissioner would have to establish rules to implement this section, including provisions for expediting alternative dispute resolution, facilitating the ability of a claimant to appear with or without counsel, establishing qualifications necessary for mediators, and providing that formal rules of evidence would not apply to proceedings.

Issues brought to suit. The only issues a claimant would be permitted to raise in an action brought against TPFA would be whether the association's denial of coverage was proper and the amount of the damages to which the claimant was entitled, if any. A claimant could recover only the covered loss payable under the terms of the association policy less, if applicable, the amount of loss already paid by the association for any portion of a covered loss, interest on the claim, and court costs and attorney's fees.

Nothing in the bill could be construed to limit the consequential damages, or the amount of consequential damages, that a claimant could recover in an action against the association under common law.

A claimant also could recover damages in addition to the covered loss and any consequential damages if the claimant proved by clear and convincing evidence that TPFA intentionally mishandled the claimant's claim to the claimant's detriment, as specified in the bill.

Voluntary arbitration. The bill would allow a person insured by the TFPA to elect to purchase a binding arbitration endorsement. A person who elected to purchase an endorsement under the bill would have to arbitrate a dispute involving an act, ruling, or decision of the association

relating to the payment of, the amount of, or the denial of a claim. Such arbitration would have to be conducted in the manner and under rules and deadlines prescribed the insurance commissioner by rule.

TFPA could offer policyholders who purchased a binding arbitration agreement a premium discount of no more than 10 percent on a TFPA-issued policy. The insurance commissioner would have to adopt rules necessary to implement and enforce this provision.

Ombudsman program. The Texas Department of Insurance (TDI) would be required to establish an ombudsman program to provide information and educational programs to assist persons insured by the TFPA with claim processes. The program would be administratively attached to TDI.

The ombudsman program could provide information and educational programs to individuals through informational materials, toll-free telephone numbers, public meetings, or other reasonable means. The program also would have to prepare and make available to each insured person information describing the ombudsman program's functions, and TFPA would be required to notify each person insured by the association about the program's operation.

By March 1 of each year, the department would have to prepare and submit a budget for the program to the insurance commissioner. The commissioner would have to adopt the budget by April 1 of the same year. Money in an amount equal to the budget would be transferred to the ombudsman program as specified in the bill.

Not later than the 60th day after the date of a catastrophic event, TDI would prepare and submit an amended budget to the insurance commissioner for approval and report to the commissioner the approximate number of claimants eligible for ombudsman services.

Other changes. Under the bill, a person could not bring a private action against TFPA, including a claim against an agent or representative of the association. A class action could be brought against the association only by the attorney general at the request of the Texas Department of Insurance.

The bill would require presiding officers who were insured by the TFPA and presided over a dispute between the association and an insured person to give written notice that the officer was insured by the association. TFPA or another party to the dispute could object to the designation of such a presiding officer by the insurance commissioner under a process laid out in the bill, and the commissioner would be required to assign a different presiding officer if it was determined that the original officer had a direct financial or personal interest in the outcome of the dispute.

The insurance commissioner would be required to adopt rules regarding the provisions of the bill, including rules concerning the qualifications and selection of appraisers and procedures for handling claims. All rules would have to promote the fairness of the process, protect the rights of policyholders, and ensure that policyholders could participate in the claims review process without the necessity of legal counsel.

Many of the bill's provisions relating to policy requirements would take effect 60 days after the effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1897 would help protect the Texas FAIR Plan Association (TPFA) against frivolous lawsuits, which can threaten the insurance market's viability and can ultimately raise the insurance costs borne by consumers. By preventing this practice, the bill would help TFPA continue to serve in its role as insurer of last resort for underserved areas of the state. The alternative dispute resolution process offered by the bill prescribes a clear path for claims settlements, and the bill includes transparency measures to ensure the claims and dispute process is navigable for all policyholders.

OPPONENTS SAY:

HB 1897 would take away important consumer protections for FAIR Plan policyholders and could impose significant costs on those consumers if they disputed a claim award amount. TPFA insures some of the state's most vulnerable policyholders, who should be allowed to contest certain insurance claims to ensure they are being treated fairly.

SUBJECT: Prohibiting certain ER claims from being dependent on utilization review

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Lucio, Oliverson, S. Davis, Julie Johnson, Lambert, C. Turner, Vo

0 nays

2 absent — G. Bonnen, Paul

WITNESSES: For — Paul Kivela, Code 3 Emergency Partners; Jeb Shipp, Hospitality Health ER; Theresa Tran, Texas College of Emergency Physicians; Carol Keating; (*Registered, but did not testify*: Mark Feanny, America's ER; Stacey Pogue, Center for Public Policy Priorities; Denise Rose, Community Health Systems; Angela Smith, Fredericksburg Tea Party; Jeffery Addicks, Hospitality Health ER; James Mathis, Houston Methodist Hospital; Tucker Frazier, Kyle Frazier Consulting; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Daniel Chepkauskas and Kyle Frazier, Patient Choice Coalition of Texas; Bradford Shields, Texas Association of Freestanding Emergency Centers; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; Michael Grimes, Texas Radiological Society; Bonnie Bruce, Texas Society of Anesthesiologists; Jenna Courtney, Texas Society of Pathologists; John Henderson, Texas Organization of Rural and Community Hospitals; Georgia Keysor; Matt Long; Joseph Murphy; Ken Olson)

Against — Karen Hill, Community Health Choice, Texas Association of Community Health Plans, Texas Association of Health Plans; Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans)

On — Jamie Walker, Texas Department of Insurance

BACKGROUND: Insurance Code ch. 541 regulates insurance industry trade practices by

defining and providing for the determination of practices that are unfair methods of competition or unfair or deceptive acts or practices, and prohibiting those trade practices.

Insurance Code sec. 4201.002 defines utilization review as a system for prospective, concurrent, or retrospective review of medical necessity and appropriateness of health care services and a determination of the experimental or investigational nature of those services. The term excludes a review in response to an elective request for clarification of coverage.

Government Code sec. 533.005 establishes requirements for a contract between a Medicaid managed care organization and the Health and Human Services Commission.

DIGEST:

Under HB 1832, making health benefit plan coverage for an emergency care claim dependent on a utilization review determination that the patient's medical condition required emergency care would be an unfair method of competition or an unfair or deceptive act or practice in the insurance industry.

The bill would apply to a Medicaid managed care organization that had a contract with the Health and Human Services Commission.

The bill would take effect September 1, 2019, and would apply only to a health benefit plan issued or renewed on or after January 1, 2020.

SUPPORTERS SAY:

HB 1832 would close a loophole that some health insurance companies use to avoid claim payments for emergency care. Health insurance plans conduct utilization reviews of emergency care claims and often deny coverage for emergency room visits deemed a non-emergency, leaving patients with a surprise medical bill. These retroactive reviews can discourage individuals with genuine emergencies from seeking lifesaving care.

By prohibiting emergency care claims from being dependent on a utilization review determination, the bill would hold health plans accountable for benefits they are required to cover. According to a study

by the American College of Emergency Physicians, only 5.5 percent of ER visits are non-urgent. The bill would improve consumer protections by ensuring all Texans were covered for emergency care services regardless of a patient's final diagnosis.

OPPONENTS SAY:

HB 1832 would undermine utilization review, which is a necessary practice for ensuring hospitals provide the most appropriate health care services for medical conditions. Currently, state and federal law require health plans to cover emergency care. The bill would make it more difficult for health plans to identify fraud, waste, and abuse in the medical billing process, especially for ER visits.

SUBJECT: Creating disaster response loan fund; appropriating $1 billion from ESF

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 23 ayes — Zerwas, Longoria, C. Bell, G. Bonnen, Buckley, Capriglione, Cortez, Hefner, Howard, Miller, Minjarez, Muñoz, Rose, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, VanDeaver, Walle, Wilson, Wu

0 nays

4 absent — S. Davis, M. González, Jarvis Johnson, J. Turner

WITNESSES: For — Donna Warndof, Harris County Commissioners Court, Harris County Flood Control District; Bill Kelly, City of Houston Mayor's Office; (*Registered, but did not testify*: Jamaal Smith, City of Houston Mayor's Office; Jim Short, Fort Bend County, Texas; Lindsay Munoz, Greater Houston Partnership; Monty Wynn, Texas Municipal League)

Against — None

On — Nim Kidd, Texas Division of Emergency Management, Texas Emergency Management Council

BACKGROUND: Some have noted that after a disaster, local governments waiting for federal disaster funds may be prevented from starting relief or recovery projects because of a lack of funds.

DIGEST: CSHB 1917 would create a disaster response loan fund to be used by the state to make short-term loans to political subdivisions affected by a disaster. The fund would consist of appropriations, credits, and transfers to the fund by the Legislature; loan repayments; grants; and interest earned on the fund's deposits and investments. The fund would be outside the state treasury and administered by the comptroller.

The bill would appropriate $1 billon from the Economic Stabilization Fund to the comptroller for the fund.

The appropriation of funds would take effect only if the bill was approved by a vote of two-thirds of the members present in each house of the Legislature, as provided by Art. 3, sec. 49-g(m) of the Texas Constitution.

Loan program. The comptroller would be required to establish the loan program to provide short-term loans for disaster relief or recovery projects to political subdivisions that were wholly or partly in an area declared a disaster area by the governor and that were eligible for financial assistance from the Federal Emergency Management Agency in response to the disaster. The comptroller could not award a loan if it would affect the political subdivision's receipt of eligible federal disaster funds.

Loans would have to be made at or below market interest rates for terms of no more than two years, and loan proceeds would have to be spent solely for disaster relief and recovery.

Until August 31, 2020, the comptroller would have to suspend awarding loans from the fund during any period that the balance was less than 75 percent of the fund balance on September 1, 2019.

The comptroller would have to credit to the fund all principal and interest payments on the loans.

Application. The comptroller and the Texas Division of Emergency Management would have to develop the loan application process. The application would have to include:

- a description of the project;
- an estimate of the project's cost;
- information on the amount of federal funds that the applicant would receive for the project; and
- evidence that the loan applicant had staff, policies, and procedures in place for the project.

The comptroller could charge applicants a fee to cover the costs of processing the application.

Report. By December 31 of each even-numbered year, the comptroller

would have to report to the governor, lieutenant governor, and members of the Legislature that included:

- the total amount of loans made during the preceding two years;
- a summary of the projects for which the loans were made; and
- the total balance of the fund on the date the report was submitted.

The bill would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, the bill would appropriate $1 billion from the Economic Stabilization Fund in fiscal 2020.

SUBJECT: Allowing Ellis County to create a local provider participation fund

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Bohac, Anderson, Biedermann, Cole, Dominguez, Huberty, Rosenthal, Stickland

0 nays

1 absent — Coleman

WITNESSES: For — Jack Wilcox, Ennis Regional Medical Center; (*Registered, but did not testify*: Drew DeBerry and Adam Aseron, Adelanto Health Care Ventures; Anthony Haley, Baylor, Scott, and White Health; Jennifer Banda, Texas Hospital Association)

Against — None

BACKGROUND: Local provider participation funds were first authorized by the Legislature in 2013 as a way for counties to access federal funding for their nonpublic hospitals without expanding Medicaid, requiring state funding, or taxing the residents of the county. The funds provide a mechanism by which the county can collect mandatory payments from such institutions to provide the nonfederal share of Medicaid supplemental payments in order to access federal matching funds. Local provider participation funds are administered by county health care provider participation programs.

DIGEST: CSHB 4548 would allow a county that was not served by a public hospital or hospital district, had a population of less than 600,000, and bordered two counties with populations of 1 million or more (Ellis County) to administer a county health care provider participation program.

Establishing provider participation program. The bill would authorize the county's commissioners court, by a majority vote, to create the program and to require a mandatory payment from institutional health care providers. If the commissioners court authorized such a program, the court would have to require each hospital in the county to submit to the

county a copy of any financial and utilization data required to be submitted to the Department of State Health Services (DSHS) or the Health and Human Services Commission (HHSC). The county commissioners could inspect the records of any hospital to the extent necessary to ensure compliance with this requirement.

Collection, holding and disbursement of funds. The bill would require the commissioners court to hold a publicized public hearing on the amounts of any mandatory payments in each year that it authorized a health care provider participation program. A representative of any paying hospital could attend and be heard at any such meeting.

The commissioners court would establish a local provider participation fund in one or more banks that would be designated as depositories for the mandatory payments. The fund would consist of the required payments including penalties and interest, money received from HHSC as a refund of federal Medicaid supplemental program payments, and fund earnings. Monies in the fund could not be commingled with other funds.

Money in the fund could only be used to:

- fund intergovernmental transfers from the county to the state to provide for the nonfederal share of a Medicaid supplemental payment program or a successor waiver program, and payments to Medicaid managed care organizations;
- subsidize indigent programs;
- pay the administrative expenses of the program;
- refund mandatory payments collected in error; and
- refund to hospitals a proportionate share of any funds collected by the county but not used to fund the payment of the nonfederal share of the Medicaid supplemental payment program.

Medicaid expansion. The bill would prohibit the use of intergovernmental transfers from the county to the state under this program to fund expanded Medicaid eligibility under the federal Affordable Care Act.

Mandatory payments. The commissioners court of a county that collected a mandatory payment authorized by the bill could require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider in the county. The mandatory payment could be assessed quarterly. During the first year in which a mandatory payment was required, the commissioners court would assess that payment on the net patient revenue of an institutional health care provider as determined by the data reported to certain state and federal agencies. The county would be required to update the amount of the mandatory payment on an annual basis.

The amount of annual payment would be uniformly proportionate to the amount of net patient revenue generated by each hospital and adequate to cover the expenses of the program, including intergovernmental transfers and indigent programs. The amount of the mandatory payment required of each paying hospital could not exceed an amount that, when added to the amount of the mandatory payments required from all paying hospitals in the county, would exceed 6 percent of the aggregate net patient revenue of all paying hospitals in the county. The commissioners court would be prohibited from using more than the lesser of 4 percent of the mandatory payments or $20,000 per year for administrative expenses.

CSHB 4548 would prohibit a hospital from adding a mandatory payment required under the bill as a surcharge to a patient. As required by federal law, the bill would prohibit a mandatory payment under the program from holding harmless any hospital.

The bill would state that any interest, penalties, and discounts on mandatory payments under this program were governed by the law applicable to county ad valorem taxes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Including sickle cell patients under controlled substance exemptions

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — S. Thompson, Wray, Allison, Guerra, Ortega, Price, Zedler

2 nays — Frank, Sheffield

2 absent — Coleman, Lucio

WITNESSES: For —Tonya Prince, Sickle Cell Association of Houston; Titilope Fasipe, Texas Children's Hospital Cancer and Hematology Center; Caitlin McNeil, The Sickle Cell Association of Texas Marc Thomas Foundation; Phillip Okwo; (*Registered, but did not testify*: Jazmine Brown, As One Foundation; Amber Pearce, Pfizer; Yesica Martinez, DeAnna Navarro, and Genesis Rae Navarro, Sickle Cell Association Of Texas Marc Thomas Foundation; Dan Finch, Texas Medical Association; Tina Alexander; Shatia Bartlett)

Against — None

On — (*Registered, but did not testify*: Ryan Van Ramshorst, Health and Human Services Commission)

BACKGROUND: Health and Safety Code sec. 481.0764(a) requires a person authorized under HIPAA to receive medical information submitted to the Texas State Board of Pharmacy from the Texas Prescription Monitoring Program to access this information before prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol to the patient.

Sec. 481.0765(a) exempts prescribers and dispensers from the above requirement if the patient has been diagnosed with cancer or is receiving hospice care. Prescribers must clearly note the patient's diagnosis or hospice status in the patient's prescription record.

DIGEST: CSHB 2576 would add individuals diagnosed with sickle cell disease to those for whom the prescriber and dispenser would be exempted from

accessing patient information in the Prescription Monitoring Program prior to prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol.

The bill would take effect September 1, 2019, and would apply only to a prescription issued on or after that date.

SUPPORTERS SAY:

CSHB 2576 would help sickle cell disease patients receive the pain management they deserve and reduce long-term costs to the health care system by allowing physicians and pharmacists to prescribe and dispense opioids without having to check the Prescription Monitoring Program (PMP).

The bill would ensure that those suffering from sickle cell disease (SCD) could access needed pain medications during sickle cell crises, which can last hours, days, or weeks. While PMP is a useful tool in tackling the opioid epidemic in Texas, it has created a stigma around prescribing opioids in general. SCD patients already suffer from stigma due to the history of sickle cell disease and can face more when seeking opioids to manage their pain. The bill would extend the same level of compassion to those who suffer from SCD that is extended to cancer and hospice patients.

CSHB 2576 also would help lower health care costs in costs in Texas by preventing excessive hospitalization for sickle cell disease patients. Studies have shown that opioid abuse by individuals in the sickle cell community is rare. People affected by sickle cell disease should have all the tools necessary to manage their pain and lead normal, productive lives.

The bill would help remove the stigma around sickle cell disease and the prescribing of opioids to certain populations by codifying exemptions to prescribing requirements in law. It was filed in conjunction with other legislation to raise awareness of sickle cell disease in Texas.

OPPONENTS SAY:

CSHB 2576 would not necessarily ensure that sickle cell disease patients received needed pain medication because it would not remove the stigma around the prescribing of opioids, and physicians and pharmacists not familiar with sickle cell disease could still refuse to prescribe or dispense

opioids to those suffering from the disease.

SUBJECT: Creating the Texas Privacy Protection Advisory Council

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Martinez Fischer, Darby, Beckley, Collier, Parker, Patterson, Shine

0 nays

2 absent — Landgraf, Moody

WITNESSES: For — John Heasley, Texas Bankers Association; Chris Humphreys, The Anfield Group; (*Registered, but did not testify*: Caleb Troxclair, Data Foundry, Golden Frog, Giganews, SuperNews; Sandy Dunn; Bill Kelberlau)

Against — Sarah Matz, Computing Technology Industry Association; James Hines, Texas Association of Business; Deborah Giles, Texas Technology Consortium; (*Registered, but did not testify*: Jay Thompson, Afact; Fred Bosse, American Property Casualty Insurance Association; Scott Hutchinson, Association of Electric Companies of Texas; Jason Winborn, AT&T; Dana Harris, Austin Chamber of Commerce; John Marlow, Chubb; Randy Lee, First American Title Insurance Company; Pamela Bratton, Meador Staffing Services, Inc.; Paul Martin, National Association of Mutual Insurance Companies; Mackenna Wehmeyer, North San Antonio Chamber; Jeff Heckler, PublicData.com; Royce Poinsett, RealPage Inc.; David Foy, RELX/LexisNexis; Randy Kildow, Texas Association of Licensed Investigators; David Edmonson, TechNet; David Mintz, Texas Apartment Association; Lauren Fairbanks, Texas Association of Manufacturers; Walt Baum, Texas Cable Association; Nora Belcher, Texas e-Health Alliance; Patricia Shipton, Texas Healthcare and Biosciences Institute; Jim Sheer, Texas Retailers Association)

On — Stephen Scurlock, Independent Bankers Association of Texas; (*Registered, but did not testify*: Troy Alexander, Texas Medical Association)

BACKGROUND:

Business and Commerce Code sec. 521.053(b) requires a person who conducts business in the state and owns or licenses computerized data that includes sensitive personal information to disclose any discovered breach of system security to any individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person. This disclosure must be made as quickly as possible.

It has been suggested that strengthening notification requirements in the case of a security breach affecting sensitive personal information could better protect individuals from potential harm.

DIGEST:

CSHB 4390 would modify requirements for the disclosure of data breaches affecting sensitive personal information and would create the Texas Privacy Protection Advisory Council.

Privacy protection council. The bill would create the Texas Privacy Protection Advisory Council to study data privacy laws in Texas, other states, and relevant foreign jurisdictions.

The council would be composed of:

- five members of the House of Representatives appointed by the House speaker;
- five senators appointed by the lieutenant governor; and
- five members of relevant industries, appointed by the governor as specified in the bill.

The House speaker and lieutenant governor would each designate a co-chair from among their respective appointments to the council.

The council would study and evaluate laws governing the privacy and protection of information that alone or in conjunction with other information identified or was linked to a specific individual, technological device, or household. The council also would make recommendations to the Legislature on specific statutory changes regarding the privacy and protection of that information.

The governor, lieutenant governor, and House speaker would have to

appoint the council's members by the 60th day after the effective date of the bill. The council would have to report its findings and recommendations to the Legislature by December 1, 2020.

This section would expire December 31, 2020.

Deadline for disclosure of data breaches. CSHB 4390 would require disclosures of system security breaches in which an individual's sensitive personal information was or was reasonably believed to have been acquired by an authorized person to be made without unreasonable delay and in each case not later than the 60th day after the date on which it was determined that the breach occurred.

The bill also would require the person or entity who owned or licensed the data including sensitive personal information that was the subject of the security breach to notify the attorney general if the breach involved 250 or more state residents. This notification would include:

- a detailed description of the nature and circumstances of the breach or the use of sensitive information acquired as a result;
- the number of Texas residents affected;
- measures taken by the person or entity regarding the breach;
- any measures that the person or entity intended to take regarding the breach after the notification; and
- information on whether law enforcement was engaged in investigating the breach.

The bill would take effect September 1, 2019.

SUBJECT: Licensing animal export-import facilities; authorizing fees and penalties

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 5 ayes — Springer, Buckley, Burns, Fierro, Raymond

0 nays

4 absent — Anderson, Beckley, Meza, Zwiener

WITNESSES: For — None

Against — None

On — Dan Hunter, Texas Department of Agriculture

DIGEST: HB 1563 would grant the Texas Department of Agriculture (TDA) the exclusive authority to license animal export-import facilities, which are facilities located in Texas and authorized under federal rules governing the exportation of live animals and that have the capacity to handle animals for transportation in international trade.

TDA would have to adopt rules that provide for:

- requirements to obtain and renew a license;
- standards governing a license holder's operation of a facility necessary to protect public health, safety, and welfare and the safety of animals held by a facility;
- fees for license issuance and renewal in amounts necessary to fund the license program; and
- a schedule of sanctions for violations of the bill.

A person would be prohibited from operating an animal export-import facility in this state without a license issued by TDA.

TDA could impose an administrative penalty not to exceed $5,000 or an administrative sanction, including license suspension or revocation, for a

violation of the bill or rules adopted under the bill.

Government entities operating animal export-import facilities would be exempt from fees levied under this bill.

The license requirement and enforcement provisions would apply beginning 90 days after the bill's effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Requiring notice of change in prescription drug benefits coverage

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Lucio, Oliverson, S. Davis, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

1 absent — G. Bonnen

WITNESSES: For — Joshua Stolow, Coalition of State Rheumatology Organizations; Chase Bearden, Coalition of Texans with Disabilities; Greg Hansch, National Alliance on Mental Illness Texas; Kevin Finkel; (*Registered, but did not testify*: Audra Conwell, Alliance of Independent Pharmacists; Denise Rose, AstraZeneca; Jo DePrang, Children's Defense Fund-Texas; James Mathis, Houston Methodist Hospital; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Marilyn Hartman and Tesia Krzeminski, National Alliance on Mental Illness Austin; Kaska Watson, Nation Infusion Center Association; Will Francis, National Association of Social Workers-Texas Chapter; Simone Nichols-Segers, National MS Society; Marshall Kenderdine, Texas Academy of Family Physicians; Jessica Boston, Texas Association of Business; Cheri Huddleston, Texas Central Hemophilia; Tom Kowalski, Texas Healthcare and Bioscience Institute; Cameron Duncan, Texas Hospital Association; Duane Galligher, Texas Independent Pharmacies Association; Doug Curran, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Michael Muniz, Texas Pharmacy Association; John Henderson, Texas Organization of Rural and Community Hospitals; Lee Ann Hampton; Charles Weaver)

Against — Melodie Shrader, PCMA; LuGina Mendez-Harper, Prime Therapeutics; Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans; Bill Kelly, City of Houston Mayor’s Office)

On — Robin Vincent, Harris County Human Resources and Risk Management; (*Registered, but did not testify*: Rachel Bowden, Texas

Department of Insurance)

BACKGROUND: Insurance Code sec. 1369.0541(a) allows a health benefit plan issuer to modify its prescription drug coverage if:

- the modification occurs at the time of coverage renewal;
- the modification is effective uniformly among all group health benefit plan sponsors or individuals covered by identical or substantially identical plans; and
- by the 60th day before the modification is effective, the issuer provides written notice of the change to the Texas Department of Insurance commissioner and each affected plan sponsor, enrollee, and individual plan holder.

Sec. 1369.0541(b) requires a health plan to provide notice of modifications affecting drug coverage if it:

- removes a drug from a formulary;
- adds a preauthorization requirement;
- imposes or alters a quantity limit;
- imposes a step-therapy restriction; or
- moves a drug to a higher cost-sharing tier unless a generic drug alternative is available.

Sec. 1369.055 requires an issuer to offer each enrollee at the contracted benefit level any prescription drug that was approved or covered under the plan for a medical condition or mental illness until the enrollee's plan renewal date, regardless of whether the drug has been removed from the plan's drug formulary before that date.

DIGEST: CSHB 2099 would require a health benefit plan issuer to provide notice of modifications affecting prescription drug coverage if the modification:

- increased a coinsurance, copayment, deductible, or other out-of-pocket expense; or
- reduced the maximum drug coverage amount.

The bill would require the notice to include a statement explaining the type of modification and indicating that on renewal of the health benefit plan, the plan issuer could not modify an enrollee's contracted benefit level for any prescription drug that was approved or covered under the plan in the immediately preceding plan year.

Exceptions. Under the bill, modifications affecting drug coverage that were more favorable to enrollees could be made at any time, and notice would not be required if the modification:

- added a drug to a formulary;
- reduced an enrollee's coinsurance, copayment, deductible, or other out-of-pocket expense; or
- removed a utilization review requirement.

Renewal. On renewal of a health benefit plan, the plan issuer could not modify an enrollee's contracted benefit level for any prescription drug that was approved or covered under the plan in the immediately preceding plan year and prescribed during that year for an enrollee's medical condition or mental illness if:

- the enrollee was covered by the plan on the date immediately preceding the renewal date;
- a physician or other prescribing provider prescribed the drug for the medical condition or mental illness; and
- the physician or other prescribing provider in consultation with the enrollee determined that the drug was the most appropriate course of treatment.

The bill would require a health plan to provide coverage to an enrollee under the circumstances described above.

The bill would prohibit certain modifications regarding a health plan issuer's drug coverage during the renewal period, including:

- removing a drug from a formulary;
- adding a preauthorization requirement;

- imposing or altering a quantity limit;
- imposing a step-therapy restriction;
- moving a drug to a higher cost-sharing tier;
- increasing a coinsurance, copayment, deductible, or other out-of-pocket expense; and
- reducing the maximum drug coverage amount.

The bill would not prohibit:

- a health benefit plan issuer from requiring a pharmacist to provide a substitution for a prescription drug in accordance with statute under which the pharmacist could substitute an interchangeable biological product or therapeutically equivalent generic product as determined by the U.S. Food and Drug Administration (FDA);
- a physician or other prescribing provider from prescribing another medication; or
- the health plan issuer from adding a new drug to a formulary.

The bill also would not prohibit a health plan issuer from removing a drug from its formulary or denying an enrollee drug coverage if:

- the FDA issued a statement questioning the drug's clinical safety;
- the manufacturer notified the FDA of the drug's manufacturing discontinuance or potential discontinuance; or
- the drug manufacturer removed the drug from the market.

The bill would take effect September 1, 2019, and would apply only to a health benefit plan issued or renewed on or after January 1, 2020.

SUPPORTERS SAY:

CSHB 2099 would address gaps in existing protections against non-medical switching, which occurs when health plans force patients off medications for financial reasons instead of medical ones. When patients lose access to treatment, they often experience recurring symptoms, further disease progression, missed work, and even hospitalization. The bill would ensure patients continued receiving prescribed medications, as long as a patient remained on the same health plan and was previously approved by the plan for that medication.

The bill would help prevent unnecessary health care costs, including increased doctor and ER visits and hospitalizations. The bill also would not change the way health plans negotiate prices with drug manufacturers. Health plans could continue updating their formularies as needed or incentivize one medication over another by offering less expensive drugs, but they could not reduce coverage for patients' preexisting prescriptions.

OPPONENTS SAY:

CSHB 2099 could cause health plans to freeze their drug formularies, resulting in significantly increased costs for the health care system. The bill would be unnecessary because existing step therapy provisions protect patients from drug formulary and plan changes.

SUBJECT: Creating a tax exemption for necessary improvements of historical sites

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Sanford, Wray

0 nays

1 absent — Shaheen

WITNESSES: For — Rick Loessberg, Dallas County Commissioners Court; (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Adam Haynes, Conference of Urban Counties; Charles Reed, Dallas County Commissioners Court; Ender Reed, Harris County Commissioners Court; Rick Thompson, Texas Association of Counties; Monty Wynn, Texas Municipal League; Al Zito)

Against — (*Registered, but did not testify*: Lynette Lucas)

BACKGROUND: Tax Code sec. 11.24(a) allows a taxing unit to exempt from property taxation part or all of the assessed value of a structure or archaeological site and the land necessary for access to such a structure or site that:

- the Texas Historical Commission designates as a recorded Texas Historic Landmark or a state archaeological landmark; or
- the taxing unit designates as a historically or archaeologically significant site in need of tax relief to encourage its preservation.

DIGEST: HB 827 would allow a taxing unit to exempt from property taxation part or all of the assessed value of certain improvements that were economically or physically necessary to support the continued use or existence of a historical structure or archaeological site and the land necessary for access to such a site that a unit had exempted wholly or partially from taxation.

An improvement would need to be located on the same parcel of property

or a parcel adjacent to the parcel on which the site was located in order to be exempted from taxation. The improvement also would have to be constructed in a manner consistent with the architectural integrity of the site.

The bill would take effect January 1, 2020, and would apply to a property tax year that began on or after that date.

SUBJECT: Terminating participation in the Emergency Services Retirement System

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 9 ayes — Murphy, Vo, Capriglione, Flynn, Lambert, Leach, Longoria, Stephenson, Wu

1 nay — Gervin-Hawkins

1 absent — Gutierrez

WITNESSES: For — Wayne Millsap, City of Lucas; Larry Bowman, Pension Board, City of Lucas

Against — None

On — (*Registered, but did not testify*: Kevin Deiters, Texas Emergency Services Retirement System)

BACKGROUND: Government Code sec. 862.001 allows the governing body of a department that performs emergency services to elect to participate in the Texas Emergency Services Retirement System.

DIGEST: HB 2178 would allow the governing body of a department participating in the Texas Emergency Services Retirement System (TESRS) plan to terminate participation if:

- the department consisted of both volunteer and at least six full-time firefighters;
- the full-time firefighters were employees of a home-rule municipality governed by the same body and of which the department was a part; and
- the governing body elected to provide retirement benefits to the volunteer firefighters through participation in an alternative retirement system.

The governing body of a department that elected to terminate participation in TESRS would forfeit all contributions to the system necessary to pay the benefits of vested members. The state board of TESRS would have to adopt rules necessary to implement the bill.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 2178 would allow a limited number of cities to discontinue participation in the Texas Emergency Services Retirement System (TESRS) in favor of alternative private market plans that provide better benefits for volunteer firefighters at lower costs to taxpayers.

This change would benefit smaller cities that have a mix of volunteer and full-time firefighters by making it affordable for them to continue their volunteer firefighter programs. These programs provide valuable training for volunteers who often become full-time firefighters, improving regional fire response. The TESRS plan requires lengthy service before volunteer firefighters become vested and earn benefits. Most volunteer firefighters do not stay with a municipal department long enough to vest, resulting in some cities making a significant financial outlay for little or no return for their volunteer firefighters.

While concerns have been raised about the impact on TESRS from cities discontinuing payments into the system, these cities would forfeit all the money they had paid into the system over the years, which would help keep the fund actuarially sound.

OPPONENTS SAY:

HB 2178 could create instability in TESRS due to a loss of future contributions if numerous departments left the system. There currently are 36 departments with 572 active participants in TESRS that could end their participation under terms of the bill. An actuarial analysis of the bill notes that TESRS is a cost-sharing retirement system where the sum of expected contributions from all participating departments is used to pay the system's obligations and kept it actuarially sound.

SUBJECT: Prohibiting restrictions on mobile internet services during a disaster

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Phelan, Deshotel, Guerra, Harless, P. King, Parker, Raymond, E. Rodriguez, Springer

0 nays

4 absent — Hernandez, Holland, Hunter, Smithee

WITNESSES: For — (*Registered, but did not testify*: Jose Alanis, Aidan Alvarado, John De Luna, and Julio Martinez, Laredo Fire Fighters Association; Bill Kelly, City of Houston Mayor's Office; Mauricio Esquivel and Juan Villarreal Jr., Mission Firefighters Association; Leroy Garcia, Mission Fire Association; Dan Finch, Texas Medical Association; Monty Wynn, Texas Municipal League; Michael Silva, Texas State Association of Fire Fighters)

Against — John Mason, AT&T; Lisa McCabe, CTIA; (*Registered, but did not testify*: Dana Chiodo, CompTIA; Chris Barron, State Firefighters and Fire Marshals Association; James Hines, Texas Association of Business; Brian Yarbrough, Texas EMS Trauma and Acute Care Foundation; Julie Acevedo, Texas Fire Chiefs Association; Noel Johnson, TMPA; Vance Ginn, Texas Public Policy Foundation; Deborah Giles, Texas Technology Consortium and Center for Technology)

On — (*Registered, but did not testify*: AJ Louderback, Sheriffs Association of Texas)

DIGEST: CSHB 1426 would prohibit a mobile internet service provider from impairing or degrading lawful mobile internet service access in an area subject to a declared state of disaster. The bill would define a "mobile internet service provider" as a person who provided mobile internet service to a wireless communications device.

The bill would not prohibit a mobile internet service provider from

prioritizing first responder internet service access or a network service designated for use by emergency services personnel if there was network congestion in an area subject to a declared state of disaster.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1426 would ensure that emergency services and first responders were able to access mobile internet services during a disaster without experiencing throttled or reduced speeds.

During large fires in California in 2018, firefighters had their mobile internet connection restricted. After contacting their service provider, the fire department was told to purchase a larger, more expensive plan to remove their data cap. This restriction had a significant impact on the ability of the firefighters to provide emergency services. The bill would address this issue by allowing service providers to prioritize first responders, enabling firefighters and EMS to have the network capacity they need to coordinate activities in a declared disaster area.

Many rural municipalities rely on volunteers as first responders and cannot afford access to the nationwide broadband network for first responders, which means these individuals must rely on their personal devices for communication during a disaster. The bill would ensure such communication remained unrestricted, enabling Texans to use their cell phones to coordinate relief efforts to get help to those in need.

The bill is narrow in nature and only concerned with when the governor issues a disaster declaration for a specific location and time period.

OPPONENTS SAY:

CSHB 1426 would impose rigid standards on major mobile wireless providers that already work to prioritize mobile internet services for first responders. These providers need flexibility to manage their network during disasters, and the bill's language regarding speed impairment or degradation is vague, which could invite legal challenges.

SUBJECT: Requiring toll project entities to publish annual financial reports online

COMMITTEE: Transportation — committee substitute recommended

VOTE: 13 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

WITNESSES: For — Terri Hall, Texas TURF, Texans for Toll-Free Highways (*Registered, but did not testify*: Matthew Geske, Austin Chamber of Commerce; Donnis Baggett, Texas Press Association; Michael Belsick; Matt Long; Ken Olson)

Against — None

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

BACKGROUND: Interested parties suggest that state toll project entities' financial reports often are not easily accessible to the public.

DIGEST: CSHB 803 would require a toll project entity to publish a financial report on its website within 180 days of the last day of the entity's fiscal year. The report would include:

- the final maturity of all bonds issued by the entity for a toll project or system;
- toll revenue for each toll project for the previous fiscal year;
- an accounting of total revenue collected and expenses incurred by the entity for the previous fiscal year, such as debt service, maintenance and operation costs, any other miscellaneous expenses, and any surplus revenue; and
- a capital improvement plan with proposed or expected capital expenditures over a period determined by the entity.

Toll project entities also could report any money deposited in a debt

service reserve fund as required by a bondholder agreement. They could publish tables and graphs from their certified audited financial report or annual continuing disclosure report to comply with the bill.

Entities would have to prominently display a link on their website to the report required by the bill. The report would have to be posted separately from the entity's certified audited financial report.

For a toll project that was the subject of a comprehensive development agreement entered into by a toll project entity, only the name, cost of the project, and termination date of the agreement would have to be posted on the entity's website.

The bill would take effect September 1, 2019.

SUBJECT: Allowing Dallas County to create supplemental civil service commissions

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Coleman, Bohac, Anderson, Cole, Dominguez, Huberty, Rosenthal

2 nays — Biedermann, Stickland

WITNESSES: For — Charles Reed, Dallas County Commissioners Court; (*Registered, but did not testify*: Gabriela Villareal, Texas Conference of Urban Counties)

Against — Charley Wilkison, Combined Law Enforcement Associations of Texas

BACKGROUND: Local Government Code secs. 158.003 and 158.004 allow certain counties to create a civil service system. Sec. 158.008 requires the commissioners courts of counties that create such a system to appoint members of a civil service commission to administer the system.

DIGEST: HB 3910 would allow a county with a population of more than 2 million that is adjacent to a county with a population of more than 1 million that has already created a civil service system (Dallas County) to establish one or more supplemental commissions to assist the civil service commission in administrating the civil service system.

The county's commissioners court would appoint three individuals to serve as members of each supplemental commission and would have to designate one of the members as chair.

The bill would organize matters within the purview of a civil service commission into categories and require a supplemental commission to adopt, publish, or enforce rules delegated by category to the supplemental commission by the commissioners court. If the commissioners court established more than one supplemental commission, the court could not delegate authority over a category to more than one supplemental

commission. The civil service commission could not adopt rules regarding categories that had been delegated to supplemental commissions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

HB 3910 would allow the Dallas County civil service commission to address its heavy workload by delegating some of its authority. Currently the county has only one three-member commission to deal with the civil service matters relating to thousands of employees. To address concerns about grievance-bearers seeking out the commission that might be most amenable to their claim, the bill explicitly would prohibit more than one commission or supplemental commission from hearing issues related to the same category of rules.

OPPONENTS SAY:

HB 3910 would expand the powers and authority of a civil service commission that already is unnecessary. The possibility of multiple committees dealing with civil service issues raises the likelihood of "venue-shopping," which could lead to unfair and ineffective administration of the civil service system.

SUBJECT: Allowing political contributions and expenditures by corporations, unions

COMMITTEE: Elections — committee substitute recommended

VOTE: 8 ayes — Klick, Cortez, Bucy, Burrows, Cain, Israel, Middleton, Swanson

0 nays

1 absent — Fierro

WITNESSES: For — Alan Vera, Harris County Republican Party Ballot Security Committee; Kelly Flanagan, Texas Realtors; (*Registered, but did not testify*: Daniel Gonzalez and Julia Parenteau, Texas Realtors; Russell Hayter; Ed Johnson; John Robertson; Bill Sargent)

Against — Dave Jones, Clean Elections Texas; (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Lon Burnam, Public Citizen; Emily Cook, Texas Right to Life; Karen Collins; John Robertson)

On — Beth Cubriel, Combined Law Enforcement Associations of Texas; Donna Davidson; Trey Trainor

DIGEST: CSHB 2586 would allow a corporation or labor organization to make campaign contributions to political committees and a committee to use such a political contribution to make a direct campaign expenditure if certain requirements were met.

Corporation and labor organization contributions. The bill would allow a corporation or labor organization to make campaign contributions from its own property to a political committee that had filed an affidavit with its campaign treasurer appointment in accordance with the bill's requirements.

Affidavits. Before a general-purpose committee or a specific-purpose committee could use a political contribution from a corporation or labor organization to make a direct campaign expenditure in connection with a

campaign for an elective office, the campaign treasurer would have to submit an affidavit stating that:

- the committee was not established or controlled by a candidate or officeholder; and
- the committee would not use any political contribution from a corporation or labor organization to make a political contribution to a candidate for elective office, an officeholder, or a political committee that had not filed an affidavit under this provision as a general-purpose or specific-purpose committee.

Filing of such an affidavit would not create any additional reporting requirements with regard to a direct campaign expenditure exceeding $100.

The bill would establish that the statutory prohibition against a political committee being assisted by expenditures made by a corporation or labor organization from contributions or expenditures required as a condition of employment or membership in a labor organization did not prohibit a political committee from making a political contribution or political expenditure wholly or partly from a campaign contribution made by a corporation or labor organization to the committee.

Communication with candidate. For purposes of determining a direct campaign expenditure, the bill would establish that a communication between a person and a candidate, officeholder, or an agent for the candidate or officeholder would not be evidence that the person had obtained the candidate's or officeholder's consent or approval for a campaign expenditure made after the communication unless the communication established that:

- the expenditure was incurred at the request or suggestion of the candidate, officeholder, or their agent;
- the candidate, officeholder, or their agent was materially involved in decisions regarding the creation, production, or distribution of a campaign communication related to the expenditure; or
- the candidate, officeholder, or their agent shared information about

the candidate's or officeholder's plans or needs that was material to the creation, production, or distribution of a campaign communication related to the expenditure and was not available to the public.

Common vendor. A person using the same vendor as a candidate, officeholder, or political committee established or controlled by a candidate or officeholder would not be acting in concert with the candidate, officeholder, or committee to make a campaign expenditure unless the person made the expenditure using information from the vendor about the campaign's plans or needs that was material to the expenditure and not available to the public.

The bill would add the creation and maintenance of a general-purpose committee's public internet web pages that did not contain political advertising to the permissible political expenditures that a corporation, acting alone or with other corporations, could make to finance a general-purpose committee.

Definitions. The bill would expand the definition of "direct campaign expenditure" to specify that a campaign expenditure would not constitute a contribution by the person making the expenditure if it was made without the prior consent or approval of the candidate or officeholder on whose behalf it was made. A campaign expenditure made in connection with a measure would not constitute a contribution by the person making it if it was not made as a political contribution to a political committee supporting or opposing the measure.

The definition of "political committee" would be revised to include two or more persons acting in concert, instead of a group of persons, with a principal purpose of accepting political contributions and making political expenditures. The term would not include a group composed exclusively of two or more individual filers or political committees required to file disclosure reports who made reportable expenditures for a joint activity.

The bill would add a new definition of "in-kind contribution" as a contribution of goods, services, or any other thing of value that was not money, and included an agreement made or other obligation incurred,

whether legally enforceable or not, to make the contribution. The term would not include a direct campaign expenditure.

The bill would take effect September 1, 2019, and would apply to an offense committed on or after that date.

SUPPORTERS SAY:

CSHB 2586 would update Texas law to reflect the 2010 U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission*, which said that the free speech clause of the First Amendment prohibits the government from restricting independent expenditures for communications by corporations, labor unions, and other associations.

The bill would permit a general-purpose or specific-purpose political action committee to use corporate funds to engage in political speech so long as the communications were not done at the request, suggestion, or with the knowledge of a candidate or a candidate's campaign. Organizations are already allowed to make independent expenditures on behalf of candidates but are required to set up a separate political action committee (PAC) to do so. By allowing streamlined reporting of a PAC's activity, the bill would provide Texans with a clearer understanding of the source and use of political funds.

The bill would not allow corporations to directly contribute money to candidates or change any current limitations on how corporations and candidates can coordinate on campaign activity.

OPPONENTS SAY:

CSHB 2586 should contain stronger requirements than the filing of an affidavit to prevent PACs from coordinating their spending with political candidates.

SUBJECT: Changing ratings used to approve insurers for some structured settlements

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Meyer, Smith, White

2 nays — Farrar, Neave

1 absent — Y. Davis

WITNESSES: For — (*Registered, but did not testify*: Rachel Huthsteiner, Independent Insurance Group; Paul Martin, National Association of Mutual Insurance Companies)

Against — None

On — (*Registered, but did not testify*: Jeff Hunt, Texas Department of Insurance)

BACKGROUND: Property Code sec. 142.009 requires a court to approve an insurance company that provides an annuity contract for a structured settlement in a suit brought by a next friend or guardian ad litem on behalf of a minor or incapacitated person. One of the factors a court can consider in granting this approval is whether the company holds an industry rating equivalent to at least two ratings issued by certain rating organizations that are listed in statute.

Concerns have been raised that the list of rating organizations in the statute was last updated in 1999 and that some of these organizations no longer are in business.

DIGEST: CSHB 3771 would change the ratings that a court could consider in approving an insurance company to provide an annuity contract for a structured settlement in a suit brought by a next friend or guardian ad litem on behalf of a minor or incapacitated person.

Rather than considering whether a company held an industry rating

equivalent to at least two ratings issued by certain rating organizations listed in statute, the court could consider whether the company held an issuer credit rating equivalent to the National Association of Insurance Commissioners NAIC 1 designation from a national or international rating agency that:

- had registered with the Securities and Exchange Commission;
- was designated as a nationally recognized statistical rating organization; and
- was on the list of Credit Rating Providers by the Securities Valuation Office of the National Association of Insurance Commissioners.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Providing benefits and tax authority; validating prior district actions

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Landgraf

WITNESSES: None

BACKGROUND: Chapter 197, Acts of the 58th Legislature, Regular Session, 1963, created the Port of Port Arthur Navigation District of Jefferson County for the construction and improvement of waterways to aid navigation and to provide maritime services.

Interested parties have called for changes to be made to the compensation packages for district commissioners and employees.

DIGEST: HB 4695 would make certain changes to the administration of the Port of Port Arthur Navigation District of Jefferson County, including giving the district the authority to impose certain taxes.

The bill would require the Board of Port Commissioners to impose certain taxes, rather than requesting the commissioners court of Jefferson County to levy them.

The bill would add benefits, set by the board, to the compensation for board members and district employees.

The bill also would provide validation and confirmation of certain district actions that occurred prior to the bill's effective date. Governmental acts or proceedings occurring after an act or proceeding validated by the bill could not be held invalid on the ground that the prior act or proceeding was, in absence of this bill, invalid. This validation and confirmation

would not extend to any matter that on the effective date of the bill was involved in litigation if the litigation ultimately resulted in the matter being held invalid, nor would it extend to any matter that had been previously held invalid by a final judgment of a court.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Allowing the removal of property encroaching on certain flood easements

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — Larson, Metcalf, Farrar, Harris, T. King, Lang, Nevárez, Oliverson, Ramos

0 nays

2 absent — Dominguez, Price

WITNESSES: For — Russell Poppe, Harris County Flood Control District; (*Registered, but did not testify*: Donna Warndof, Harris County Commissioners Court; Bill Kelly, City of Houston Mayor's Office; Gabriela Villareal, Texas Conference of Urban Counties)

Against — None

BACKGROUND: Some have suggested that encroachment of real and personal property on flood control easements in the Harris County Flood Control District impedes flood mitigation infrastructure. They suggest removal of encroachments can be protracted and expensive and should be expedited.

DIGEST: CSHB 3782 would authorize the Harris County Flood Control District to remove real or personal property placed on land owned by the district or land subject to an easement held by the district, regardless of when the property was put in place and without the consent of the property's owner.

The district would have to notify the owner twice by certified mail, with at least 14 days in between notices. The district could bring a cause of action against the owner to recover the cost of removing the property beginning seven days after the second notice was received.

In a lawsuit by a property owner regarding removal of such property, a court could deny a request for temporary injunctive relief against the district and issue injunctive relief allowing the district to remove the property if the district showed a substantial likelihood of success on the

merits.

The bill would take effect September 1, 2019.

SUBJECT: Prohibiting dwelling unit base charges for nonsubmetered utility services

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 11 ayes — Larson, Metcalf, Dominguez, Farrar, Harris, T. King, Lang, Nevárez, Oliverson, Price, Ramos

0 nays

WITNESSES: For — Gary Gates, Gatesco, Inc.; (*Registered, but did not testify*: Kyle Jackson, Texas Apartment Association)

Against — (*Registered, but did not testify*: Ty Embrey, City of Garland)

BACKGROUND: Water Code ch. 13, subch. M defines "nonsubmetered master metered utility service" as water utility service that is master metered for the apartment house but not submetered, and wastewater utility service based on master metered water utility service.

Concerns have been raised about the transparency and fairness of practices relating to nonsubmetered master metered utility service, including dwelling unit base charges imposed by municipally owned utilities for such services.

DIGEST: CSHB 4246 would prohibit a municipally owned utility from charging a dwelling unit base charge for nonsubmetered master metered utility service. A utility also could not impose different per-meter base charges on residential and commercial customers.

A person could appeal a charge that did not comply with the bill by filing a petition with the Public Utility Commission. The commission would have to hear the appeal de novo, and the municipality would have the burden of proof to establish that the charge complied with the bill.

The bill would require each municipally owned utility that billed for nonsubmetered master metered utility service to make publicly available for each billed entity a statement that included:

- a current copy of the municipally owned utility's rate structure applicable to the billed service; and
- a list of fees and charges applicable to the billed service.

The requirement for this statement would not authorize or require a municipally owned utility to make an entity's bill publicly available.

The bill would take effect September 1, 2019.

SUBJECT: Exempting private toll projects from certain billing requirements

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Canales, Bernal, Y. Davis, Goldman, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

2 absent — Landgraf, Hefner

WITNESSES: For — Steve DeWitt, Blueridge Transportation Group; James Hernandez, Harris County, Harris County Toll Road Authority; (*Registered, but did not testify*: Eran Tolidano and Enrique Martin de Valmaseda Rojo, Blueridge Transpotation Group; Matt Hanks, Brazoria County; Aimee Bertrand, Harris County Commissioners Court; Colin Parrish, Orrick)

Against — Todd Key, NETTP; Crystal Main, Northeast Tarrant Tea Party; Terri Hall, Texas TURF and Texans for Toll-Free Highways; Don Dixon; Jack Finger; Lynda Somma; (*Registered, but did not testify*: Angela Smith, Fredericksburg Tea Party; Susan Dantzler, Lege Dir Texas Nationalist Movement; Sheila Hemphill, Texas Right To Know; and 23 individuals)

On — (*Registered, but did not testify*: Brian Ragland, Texas Department of Transportation)

BACKGROUND: Transportation Code sec. 228.0545 allows the Texas Department of Transportation (TxDOT) to use video billing as an alternative toll payment method. TxDOT must send a written invoice to the registered owner of the vehicle for the toll. Under sec. 228.0546, an invoice must require payment no later than 30 days after the invoice was mailed and conspicuously state the amount due, the date due, and that failure to pay will result in an administrative fee.

Sec. 228.0547 requires a person who receives an invoice to pay the amount owed for the toll or send a request to TxDOT for a review of the

toll assessment. If a person fails to comply, TxDOT may add an administrative fee of up to $6. The cumulative administrative fees for a person in a year may not exceed $48.

Sec. 223.201 allows TxDOT to enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, or operate a toll project.

DIGEST:

CSHB 2578 would exempt toll collection by a private participant or subcontractor under a comprehensive development agreement entered into before September 1, 2017, from the billing requirements in Transportation Code secs. 228.0545, 228.0546, and 228.0547.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 2578 would allow certain tolling projects that had contracted with TxDOT before the implementation of SB 312 by Nichols in 2017 to continue to issue bills in the manner negotiated by their contract. SB 312, which amended billing operations and capped toll fees, had a large financial impact on such companies because they based their bids for tolling projects on the law at the time. If the companies could not recover lost revenue, this could have negative consequences on their bond ratings. This bill would allow those companies to continue tolling projects with long-term financial stability.

The bill also would help provide consistency between toll roads. Tolling projects currently contracting with TxDOT must meet the requirements established by SB 312, but county regional tolling authorities do not. Any future planned projects in which a TxDOT toll road met up with a county toll road would lead to inconsistencies in how toll users were billed. CSHB 2578 would ensure that those planned projects could remain consistent for motorists. This bill is not about charging higher fees on toll users but continuing current toll contracts to ensure consistent toll project operations and financial stability for contractors.

OPPONENTS

CSHB 2578 would improperly work to reverse for some private

SAY: companies the administrative fee caps put into place in 2017 to ensure that tolling authorities did not overly burden toll users. Those changes made during the 2017 legislative session were important protections for Texans, but this bill would leave certain toll users unprotected from large fees on the stretch of road operated by a specific business under a comprehensive development agreement with TxDOT. This agreement should not tie the hands of the Legislature in making future policy decisions.

SUBJECT: Amending certification process for certain electric transmission facilities

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Phelan, Hernandez, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, E. Rodriguez, Smithee, Springer

0 nays

1 absent — Raymond

WITNESSES: For — Lino Mendiola, Entergy Texas, Inc., El Paso Electric Company, Xcel Energy; Tom Oney, Lower Colorado River Authority Transmission Services Corporation; Jaren Taylor, Oncor Electric, CenterPoint Energy, AEP Texas, Texas New Mexico Power; Tony Clark, Oncor, CenterPoint Energy, AEP Texas, Texas New Mexico Power Company, Xcel Energy, Entergy; Katie Coleman, Texas Association of Manufacturers; (*Registered, but did not testify*: Isaac Albarado, AEP Texas; Jeff Bonham, CenterPoint Energy, Inc.; Daniel Womack, Dow; Patrick Reinhart, El Paso Electric Co.; Chance Sampson, Entergy Texas, Inc.; James Mathis, Occidental Petroleum; Walt Jordan, Oncor; Paul Schulze, Sharyland Utilities, L.P.; Mia Hutchens, Texas Association of Business; Austin McCarty, Texas Chemical Council; Roy Jackson, TNMP; Damon Withrow, Xcel Energy, Southwestern Public Service Co.)

Against — Trent Carlson, GridLiance; Aundrea Williams, Lonestar Transmission, LLC; Lawrence Willick, LS Power Development, LLC; Josiah Neeley, R Street Institute; (*Registered, but did not testify*: Calvin Crowder, GridLiance)

On — Ryan Thomas, East Texas Electric Cooperative, Inc.; Carl Galant, Texas Electric Cooperatives; (*Registered, but did not testify*: Kathi Calvert, Houston County Electric Cooperative Inc; Mark Tamplin, Jasper Newton Electric Cooperative; Cyrus Reed, Lone Star Chapter Sierra Club; Kathy Wood, Panola-Harrison Electric Cooperative, Inc; DeAnn Walker, Public Utility Commission of Texas; Rhett Reid, Rusk County Electric Cooperative; Doug Turk, Sam Houston Electric Cooperative; Russell T.

"Russ" Keene, Texas Public Power Association; Robert Walker, Upshur Rural Electric Cooperative; Cliff Campbell and Debbie Robinson, Wood County Electric Cooperative)

BACKGROUND:

Utilities Code sec. 37.051 prohibits an electric utility or other person from providing service to the public under a franchise or permit unless the utility or person obtained from the Public Utility Commission (PUC) a certificate of public convenience and necessity. An electric cooperative is not required to obtain a certificate for the construction, operation, or extension of any generating facilities or interconnection facilities.

Sec. 37.051(d) allows a certificate to be granted to an electric utility or other person for a facility used as part of the transmission system serving the ERCOT power region solely for transmission of electricity. Sec. 37.051(e) allows PUC to consider an application for a certificate to construct transmission capacity that serves the ERCOT power region. Before granting a certificate, PUC must make certain findings.

DIGEST:

CSHB 3995 would amend provisions regarding the requirement, division, and transfer of a certificate of convenience and necessity for electric utilities, municipally owned utilities, and electric cooperatives providing certain services under jurisdiction of the Public Utility Commission (PUC).

Certification for new transmission interconnections. The bill would specify that a certificate to build, own, or operate a new transmission facility that interconnected with an existing utility facility could be granted only to the owner of the existing facility.

If the new transmission facility interconnected with facilities owned by different utilities, each entity would have to be certified to build, own, or operate the new facility in separate and discrete equal parts, unless they agreed otherwise.

Notwithstanding the above provisions, if a new transmission line would create the first interconnection between a load-serving station and an existing transmission facility, the entity with a load-serving responsibility or cooperative that had a member with such responsibility would have to

be certified to build, own, or operate the new line and station.

The owner of the existing facility would have to be certified to build, own, or operate the station or tap at the existing transmission facility to provide the interconnection, unless the owner was unwilling to build. In that case, the entity or cooperative with load-serving responsibility could be certified.

Designation of other facilities. The bill would allow an electric utility or municipally owned utility authorized to build, own, or operate a new transmission facility to designate a municipally owned utility or another certified utility within the same electric power region, coordinating council, independent system operator, or power pool to build, own, or operate the facility, subject to PUC rules.

The division of any required certification of facilities would apply, unless each entity agreed otherwise. The bill would not intend to require a certificate for facilities that PUC had determined did not require certification.

Certificate transfer. The bill would authorize an electric utility or a municipally owned utility to sell, assign, or lease a certificate or right obtained under a certificate if the purchaser was:

- already certified by PUC to provide electric service within the same electric power region, coordinating council, independent system operator, or power pool; or
- an electric cooperative or municipally owned utility.

PUC could authorize the transfer of a certificate or right if it would not diminish the state's retail rate jurisdiction and the purchaser could provide adequate service.

Cooperative agreements. Notwithstanding other provisions of the bill, The bill would allow an electric cooperative to be certified to build, own, or operate a new facility in place of any other electric cooperative if both entities agreed, subject to PUC rule.

Persons required to have certification. The bill would remove the prohibition on a person who was not an electric utility from providing service under a franchise or permit without obtaining a certificate.

Repealed provisions. The bill would repeal Utilities Code sec. 37.051(d), (e), and (f), relating to the authorization of a certificate for a facility used as part of the transmission system serving the ERCOT power region and the required PUC findings before granting such a certificate.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 3995 would help ensure regulatory certainty for transmission projects in the state and would maintain the status quo for the jurisdiction of the Public Utility Commission (PUC) over transmission rates and reliability. Texans currently benefit from one of the most competitive and successful electric markets in the world. However, a recent final rule issued by the Federal Energy Regulatory Commission (FERC) could open up the state to federal regulation by ceding jurisdiction over electric transmission facilities to FERC.

The rule would regulate how transmission lines could be built and bring into question the reliability of services, as they would no longer be under the jurisdiction of PUC. Areas outside the ERCOT power grid could see increases in rates, as FERC is more lenient in allowing utilities to receive higher returns on equity. This means customers in East Texas or parts of the Panhandle could see increased costs. The bill also would ensure the electric cooperatives could continue to make agreements to build, own, or operate transmission facilities to best serve their communities.

CSHB 3995 would follow the trend of other states in passing legislation to maintain state oversight over their own grid. Concerns that the bill would close off the transmission markets to competition are misplaced since there is no real competition for transmission. It is not realistic to have several different transmission lines and poles installed, competing for customers. Transmission always has been regulated under PUC to efficiently bring electricity to customers. Certain reports of cost-savings

from competitive bidding for transmission projects are effectively speculative. Because none of the projects started since the FERC rule was issued have finished construction, information on potential cost savings is not based on evidence.

OPPONENTS SAY:

CSHB 3995 could reverse the current trend in the electric market toward competitive bidding for transmission projects. After a recent FERC rule was published, several projects were started nationwide, including one in Texas. The electric company that ultimately won the bid for the transmission project in the state offered significant cost savings that could benefit customers in the area. Passage of this bill could prevent the project from going forward, ending the potential for lower rates for customers.

Since opening up the electric market, Texas has twice the energy production of any state and the ERCOT grid is considered a model for other states and countries. It is now time to open up transmission regulations to allow incumbent utilities to bring jobs and innovation into the state. A study published by the Brattle Group in 2018 showed that utilities could save up to $8 billion nationwide by opening up transmission projects to competition, and costs were reduced when an independent company won a bid for a transmission project. The bill could end the potential for competition by codifying the current process of transmission regulation.

OTHER OPPONENTS SAY:

CSHB 3995 would subject to PUC rules an agreement made between electric cooperatives that would allow one cooperative to build, own, or operate a new facility in place of another. This could open the door to unnecessary rulemaking and could conflict with provisions of the Public Utility Regulatory Act, which provides for limited PUC jurisdiction over electric cooperatives.